

AO 241 (Rev. 09/17)

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY** 3:22-cv-5753-BHS-DWC

United States District Court		District:
Name (under which you were convicted): <u>Dennis McDaniel</u>		Docket or Case No.: <u>09-1-05629-5</u>
Place of Confinement: <u>Stafford Creek Correctional Center</u>	Prisoner No.: <u>924359</u>	
Petitioner (include the name under which you were convicted) <u>Dennis McDaniel</u>	Respondent (authorized person having custody of petitioner) <u>v. Bennett</u>	
The Attorney General of the State of:		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Pierce County Superior Court
930 TACOMA A South Room 930
TACOMA, Washington

(b) Criminal docket or case number (if you know): 09-1-05629-5

2. (a) Date of the judgment of conviction (if you know): 3-11-11

(b) Date of sentencing: 3-11-11

3. Length of sentence: 160 to Life

4. In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No

5. Identify all crimes of which you were convicted and sentenced in this case: (1) Count

Child Molestation (1) degree

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)
☐ (2) Guilty ☐ (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

Rape of a child (1st degree, not guilty Not guilty to child Molestation (1st degree and was found guilty)

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Court of Appeal

(b) Docket or case number (if you know): 09-1-05629-5

(c) Result: Affirmed

(d) Date of result (if you know): May 2013

(e) Citation to the case (if you know):

(f) Grounds raised: Ineffective App of Counsel Speedy trial Rights 4.1 CRR 3.3 CRR opinion testimony Rape should statute

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: Washington State Supreme Court

(2) Docket or case number (if you know):

(3) Result: Affirmed

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(4) Date of result (if you know): Wait of Habeas Corpus

(5) Citation to the case (if you know): _____

(6) Grounds raised: SAME(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☒ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes ☐ No

(7) Result: _____

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(8) Date of result (if you know): 2016 - 2019 - 2021

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Court of Appeal Washington State Supreme Court

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: offender score Newly discovered Evidence(5) Grounds raised: Systemic Racism bias that is effective Assistance of Counsel Fruits of a poisonous Tree the application for probable cause captioned Kenneth McDaniel 09-1-05629-5, Photo's good time credit Kenneth McDaniel, Kenneth McDaniel J/S 1989 Conviction Modus operandi Altered document and the prejudice Effects that Allowed for Conviction deficient Performance

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): August 10

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: Pierce County Superior Court(2) Docket or case number (if you know): 09-1-05629-5(3) Date of filing (if you know): June 2021(4) Nature of the proceeding: Motion to Dismiss or Modify(5) Grounds raised: In Effective Ass of Counsel, Newly discovered Evidence Declaration for Determination of probable cause Kenneth McDaniel 09-1-05629-5 Kenneth McDaniel 1989 Conviction "Modus operandi" Altered document Photo and VLP showing defense lawyer helping to convicted defendant good Conducted time Kenneth McDaniel 09-1-05629-5

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes ☐ No(7) Result: Affirmed(8) Date of result (if you know): August 10

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☒ Yes ☐ No(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I didn't have enough knowledge about going further
as I need and ask for counsel which was denied

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Fourth Amendment Fourteenth Amendment
Due Process Violation

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(1) Altered Sex Offender Registration Log showing that
that Dennis McDaniel was convicted of Rape of a child
(1) and that I registered on numerous occasions at the
King County Sheriff department, a fact that is not
true and I have evidence supporting this fact

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) Direct Appeal of Ground One:(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why: _____

_____**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

_____(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO:

Modus Operandi Declaration for Determination
of Probable Cause Kenneth McDaniel 09-1-05629-5

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Kenneth McDaniel 1989 Conviction Rape of a child (7 The state
Police used Kenneth McDaniel Conviction to bolster the
case showing that Dennis McDaniel had committed the
same act before under similar circumstances creating
a pattern as there was insufficient evidence showing a
crime had been committed, so the Affidavit applying
for probable cause was based on facts that was not true
based on these prejudicial facts showing a pattern

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

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Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE:Ineffective App of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

It was because of Counsel deficient performance that allowed MacFarland conviction (17 10.58 motion defective Probable cause Failure to impeach the detective based on the Photo's stipulated agreement giving up my Right to a defense as Identity Ex parte to Prosecutor for failure to Arraigned Court(2) Told Prosecutor how to change Court(2) to an Alternative

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(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

_____**(c) Direct Appeal of Ground Three:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why: _____

_____**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

_____(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: ,

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: MARK QUIGLEY

(b) At arraignment and plea: MARK QUIGLEY

(c) At trial: MARK QUIGLEY

(d) At sentencing: MARK QUIGLEY

(e) On appeal: SUSAN WILKS

(f) In any post-conviction proceeding: SUSAN WILKS

(g) On appeal from any ruling against you in a post-conviction proceeding: SUSAN WILKS

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

Q1 I had a Re-sentence under Blake where my J/S was not valid Q2 Newly discovered Evidence the Documents showing that Kenneth McDaniels Prison Conviction Photo as well as the Declaration for Determination of Probable Cause (Caption) Kenneth McDaniels

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09-1-05629-5 Sex offender Registration log that was altered Pierce County good time Credit showing Kenneth McDaniel 09-1-05629-5 3-17-11

Kenneth McDaniel 1989 Conviction Rape of a Child (1st degree Judgment and Sentence, Kenneth McDaniel

TACPD Conviction 6-15-2008 Kenneth McDaniel 091730898 offer of proof that the state did use fake evidence in order to establish probable cause

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

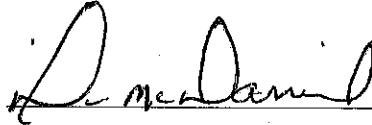
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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

Evident any blamig at the
very first, New trial, Dismissal without or with prejudice

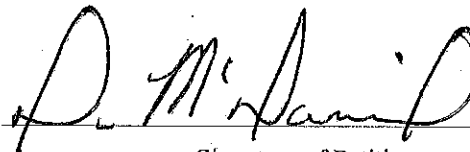
or any other relief to which petitioner may be entitled.



Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 10-10-22 (month, date, year).

Executed (signed) on 10-10-22 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.